



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Director

August 22, 2007

Ms

Re: **CALIFORNIA TIRE RECYCLING FEE ACCOUNT NO. 1**
REVISED LEGAL OPINION REGARDING DEMONSTRATOR VEHICLES
AND THE CALIFORNIA TIRE FEE

Dear Ms. :

This letter clarifies the guidance contained in the April 18, 2007, letter I sent your company in response to a letter from a former employee of your company, requesting a legal opinion regarding the California Tire Recycling Act (Act). Specifically, your company inquired as to who should pay the California Tire Fee (fee) with respect to tires on demonstrator vehicles, and when. Your company's letter referenced an earlier letter, dated January 30, 2001, from the Excise Taxes Division of the Board of Equalization (Department), to the ' ion (2001 Letter), which addressed this issue. Your company's letter requested that the position stated in the 2001 Letter be revisited and revised, due to "evolving industry and retail practices," in order "to provide clear guidance to motor vehicle dealers" regarding the reporting of the tire fee and to effectuate the Legislature's intent that the fee be paid whenever a new tire is sold.

In this letter, I will restate the guidance given in my April 18, 2007, letter, which provided a legal rationale for making a minor change (in light of the relatively few tires at issue) with respect to the reporting of the fee as to tires mounted on demonstrator vehicles. This minor change ensures that these mounted tires no longer, in effect, avoid the fee (as they did under the guidance of the 2001 Letter). Although my April 18, 2007, letter did not address the issue of spare tires, this letter clarifies that the fee treatment of spare tires for demonstrator vehicles set forth in the 2001 Letter remains the same and is substantively unaffected by the opinion expressed in my April 18, 2007, letter. Further, this letter also serves to clarify that, for purposes of auditing periods prior to the first quarter of 2008 (1Q08) under the Tire Fee Law, the Department will continue to follow the approach set forth in the 2001 Letter. In other words, the minor change set forth in my April 18, 2007, letter, and reaffirmed herein, will not take practical effect until January 1, 2008. The delay in the practical effect of this minor change will provide

sufficient time for the Department to work with the C _____ to notify affected vehicle dealers so that reporting congruent with this opinion letter can be achieved commencing in 1Q08. As the foregoing should make clear, this letter supersedes and replaces my April 18, 2007, letter.

Your company's letter asked for a "single, simple rule" for applying the fee to new tires that are installed on motor vehicles when they are purchased. As indicated above and discussed in more detail below, after considering your company's letter's discussion of the several questions at issue here, previous Board legal and staff opinions regarding the imposition of the fee, and relevant provisions of the Public Resources Code (PRC) and Vehicle Code (VC), it is our opinion that the guidance of the 2001 Letter should be revised. The following summarizes the more detailed discussion set forth in the remainder of this letter:

The California Tire Fee must be paid by every person who purchases a new tire for use as it is intended to be used with motor vehicles and specified equipment. Thus, the fee must be paid by every person who purchases new tires with a new or used motor vehicle for use as the tires are intended to be used with the new or used motor vehicle or equipment, and, where relevant, who registers the new or used motor vehicle with California Department of Motor Vehicles (DMV). In the terms used by the Act, the "retail seller" must collect the fee from the "retail purchaser."

The terms "retail purchaser" and "retail seller" are not defined in the Act or in any other law that may be construed to be related to the Act. Therefore, based on the provisions of the Act and for purposes of the Act, a "retail purchaser" is determined to be a person who purchases a new tire for use as it is intended to be used, and a "retail seller" is the person who sells the new tire to the retail purchaser. A "new tire" is any tire that is not retreaded, reused, or recycled.

In those situations where a seller timely accepts in good faith a valid resale certificate stating that a purchaser is purchasing the vehicle (inclusive of any new tires) for resale (i.e., the purchaser is a dealer), the seller is not required to collect the fee from the dealer or remit the fee to the Board. Instead, the dealer who, pursuant to the issuance of a resale certificate, purchased the new tires without paying the fee is required to self-report and pay to the Board the fee on any new tires mounted on vehicles that are put to any personal or business use besides demonstration or display (i.e., when the dealer-purchaser, for purposes of the Act, becomes a "retail purchaser").

For reporting purposes, except in the rare occurrence where it has been mounted and used on a demonstrator vehicle, a demonstrator vehicle's spare tire remains new. Thus, it is reasonable to conclude that the dealer has purchased the spare tire for resale and is storing the spare for later sale to an end user. Accordingly, under such circumstances, the person who ultimately sells a demonstrator vehicle to an end user should collect and remit to the Board the fee with respect to the spare tire at the time of such sale because the end user is the retail

purchaser of the spare tire. However, if a dealer mounts a new spare tire on a vehicle while it is being used as a demonstrator vehicle, the dealer should self-report and pay the fee on that tire just like the dealer did with respect to the four tires originally mounted on the demonstrator vehicle. Additionally, if any new tires are mounted on a former demonstrator vehicle to prepare it for sale to an end user, the person making the sale to the end user should collect and remit to the Board the fee with respect to such new mounted tires.

It is our understanding that a dealer's vendor (e.g., a manufacturer) generally does not know, at the time the dealer purchases a particular vehicle, if the vehicle will be put to use exclusively for demonstration and display as part of the dealer's inventory until it is resold or if the vehicle will also be put to taxable use as a demonstrator vehicle. (See Cal. Code Regs., tit. 18, § 1669.5.) Therefore, when a timely, valid resale certificate is taken, the person from whom the dealer purchases the vehicle is relieved from liability for collecting and remitting the fee to the Board.

DISCUSSION

Background

As amended, effective January 1, 1997, the Act mandates that a fee, known as the California Tire Fee, be collected from all persons purchasing a new tire. The fee is collected to create a fund that is used to address, through a program for recycling throughout the State, the environmental and health concerns associated with the eventual disposal of those tires in landfills and stockpiles and through illegal dumping. (PRC, §§ 42861 & 42870 et seq.) In order to carry out the Legislature's intent, the fee must be collected on every new tire when it is sold to the person who uses the tire as it is intended to be used. To that end, the Act provides: "A person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar and seventy-five cents (\$1.75) per tire." (PRC, § 42885, subd. (b)(1) [as amended effective 7/18/06] [emphasis added].) The Act also provides: "The retail seller shall collect the California tire fee from the retail purchaser at the time of sale . . ." (*Id.* at § 42885, subd. (b)(3) [emphasis added].)

However, with respect to demonstrator vehicles and the fee, the 2001 Letter states:

[T]he vehicle is first sold at retail as a used car after its demonstrator service. . . .
[T]he fee is due on the first retail sale of this vehicle for all new tires. Therefore, assuming no new tires have been placed on the vehicle, four tires are used and not subject to the fee. However, since the spare tire is presumably new, and the fee has not previously been paid on it, the fee is due on the new spare tire. (2001 Letter, at p. 1.)

In other words, under the guidance of the 2001 Letter, the four tires that are mounted on and sold with the demonstrator vehicle will eventually be discarded without the fee ever being paid on them. As your company's letter points out, this result does not seem to be consistent with the Legislature's intent that the fee be collected whenever a new tire is sold.

Analysis

As it is used in the Act, the term “‘new tire’ means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment.” (PRC, § 42885, subd. (g) [emphasis added].) Further, “‘new tire’ does not include retreaded, reused, or recycled tires.” (*Ibid.*)

As stated in this provision, one or more new tires may be sold with both new and used motor vehicles, so when new tires mounted on a new or used motor vehicle are sold for use as they were intended to be used, such as when a dealer purchases new tires with a new or used motor vehicle that the dealer chooses to use as a demonstrator vehicle, the fee is due.

A motor vehicle is “new” until it becomes “used.” Under the Vehicle Code, a “used vehicle” is one that, among other things, “has been sold, or has been registered with the [DMV], or has been sold and operated upon the highways.” (VC, § 665 [emphasis added].) “Used vehicles” are also vehicles that are “unregistered [and] regularly used or operated as demonstrators in the sales work of a dealer.” (*Ibid.* [emphasis added].) In other words, under the Vehicle Code, a vehicle is “used” if it is “sold,” or “registered,” or “sold and operated upon the highways,” or is a “demonstrator.” Therefore, once a motor vehicle has been put to use as a demonstrator vehicle, it becomes a “used vehicle,” and the new tires that were mounted on the vehicle were sold to the dealer with the vehicle and used as they were intended to be used.

PRC section 42885, subdivision (b)(3), requires the “retail seller” to collect the “fee from the retail purchaser at the time of sale [emphasis added].” However, when a dealer purchases a new or used vehicle on which new tires are mounted, the seller may not know if the dealer is a “retail purchaser,” as defined above (i.e., a person who is purchasing the new tires for use as they are intended to be used). Therefore, if the seller timely accepts in good faith a valid resale certificate stating that the dealer is purchasing the vehicle (inclusive of any new tires) for resale, for purposes of the Act, the dealer is not a “retail purchaser” and the seller is not a “retail seller” as to that wholesale transaction, and the seller is not required to collect the fee from the dealer-purchaser and remit it to the Board. However, in those situations where the dealer subsequently puts the tires to their intended use, by putting the vehicle to taxable use as a demonstrator vehicle or otherwise, the dealer becomes a “retail purchaser” who purchased the new tires to be used for their intended use and must self-report and pay the fee to the Board.

For reporting purposes, typically the spare tires associated with demonstrator vehicles remain new. With respect to a demonstrator vehicle’s new spare tire, it is reasonable to conclude that the dealer has purchased the spare for resale and is storing the spare (most likely in the trunk of the demonstrator vehicle) for ultimate sale to an end user. Accordingly, the person who ultimately sells a demonstrator vehicle to an end user should collect and remit to the Board the fee with respect to the spare tire at the time of such sale. Under such circumstances, the end user is the retail purchaser of the spare tire.

In the rare occurrence where the demonstrator vehicle's spare tire is mounted and used on the demonstrator vehicle (e.g., as a result of one of the originally mounted tires becoming flat), the dealer should self-report and pay the fee to the Board on the spare tire. If the same (now used) spare tire is ultimately sold to the eventual end user, no fee for the spare tire would need to be collected from the end user (since it has already been self-reported by the dealer). However, if the used spare tire is replaced with a new spare tire that is then sold to the end user, then the person selling the demonstrator vehicle should collect the fee on the new spare tire from the purchaser at the time of sale and remit the fee to the Board.

In sum, it was the Legislature's intent that the fee must be paid when a person purchases a new tire and uses the tire as it is intended to be used. Accordingly, with respect to demonstrator vehicles, a dealer who purchases a new or used motor vehicle on which new tires are mounted, and who uses the tires as they are intended to be used when the vehicle is placed in demonstrator status, must report and pay the fee on those new tires to the Board, if the fee was not paid previously.

Without disclosing the identity of you or your company, or any confidential information, Tax Counsel IV Randy Ferris of the Board's Legal Department has confirmed that [redacted] is amenable to the reporting guidance provided in this letter and believes that it would not be unduly burdensome for dealers to conform their fee reporting to this guidance by January 1, 2008. In the near future, the Legal Department and the Environmental Fees Division, after further conferring and coordinating with the [redacted], will notify the dealers affected by the above-discussed minor change to the guidance previously given in the 2001 Letter so that reporting will conform to the opinion provided herein for periods commencing on and after January 1, 2008.

If you have any questions regarding the information provided above or would like further assistance regarding any of these matters, please contact me as provided above or Mr. Ferris at (916) 322-0437.

Sincerely,

Carolee D. Johnstone
Tax Counsel

CDJ/

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Ms.
August 22, 2007
Page 6 of 6

bcc: Mr. Peter Gaffney (MIC:62)



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JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

April 18, 2007

Re: CALIFORNIA TIRE RECYCLING FEE ACCOUNT NO. _____
REQUEST FOR LEGAL OPINION REGARDING DEMONSTRATOR
VEHICLES AND THE CALIFORNIA TIRE FEE

Dear

This letter is in response to your letter to me requesting a legal opinion, regarding the California Tire Recycling Act (Act), as to who should pay the California Tire Fee (fee) on demonstrator vehicles, and when. In your letter you reference an earlier letter, dated January 30, 2001, from the Excise Taxes Division of the Board of Equalization (Board), to the (2001 letter), which addressed this issue.

You request that the position stated in that letter be revisited and revised, due to "evolving industry and retail practices," in order "to provide clear guidance to motor vehicle dealers in collecting the appropriate tire fee" and to ensure that the Legislature's intent, that the fee be collected on every tire when it is first sold at retail, be realized. I appreciate the thoroughness of your analysis of this matter and your initiative in asking that the Board reconsider the guidance given in the 2001 letter.

You have asked for a "single, simple rule" for applying the fee to new tires that are installed on motor vehicles when they are purchased. As discussed in more detail below, after considering your discussion of the several questions at issue here, previous Board legal and staff opinions regarding imposition of the tire fee, and relevant provisions of the Public Resources Code (PRC) and Vehicle Code (VC), it is our opinion that the guidance of the 2001 letter should be revised. The following summarizes the more detailed discussion set forth in the remainder of this letter:

The California Tire Fee must be paid by every person who purchases a new tire for use as it is intended to be used with motor vehicles and specified

equipment. Thus, the fee must be paid by every person who purchases new tires with a new or used motor vehicle for use as the tires are intended to be used with the new or used motor vehicle or equipment, and, where relevant, who registers the new or used motor vehicle with California Department of Motor Vehicles (DMV). In the terms used by the Act, the "retail seller" must collect the fee from the "retail purchaser."

The terms "retail purchaser" and "retail seller" are not defined in the Act or in any other law that may be construed to be related to the Act. Therefore, based on the provisions of the Act and for purposes of the Act, a "retail purchaser" is determined to be a person who purchases a new tire for use as it is intended to be used, and a "retail seller" is the person who sells the new tire to the retail purchaser. A "new tire" is any tire that is not retreaded, reused, or recycled.

In those situations where a seller timely accepts in good faith a valid resale certificate stating that a purchaser is purchasing the vehicle (inclusive of any new tires) for resale, the seller is not required to collect the fee from the purchaser or remit the fee to the Board. Instead, the purchaser who, pursuant to the issuance of a resale certificate, purchased the new tires without paying the fee is required to self-report and pay to the Board the fee on any new tires mounted on vehicles that are put to any personal or business use besides demonstration or display (i.e., when the purchaser, for purposes of the Act, becomes a "retail purchaser").

As applied to so-called demonstrator vehicles, the specific subject of your inquiry, the fee would be due from the auto dealer as the person to whom the new tires and the new or used motor vehicle have been sold and who uses the tires as they are intended to be used on the vehicle. The auto dealer purchases the new tires, along with the vehicle, and an employee of the auto dealer uses the tires as they are intended to be used on the vehicle while it is being used as a demonstrator vehicle. The sale of the new tires occurred when the auto dealer purchased the new or used motor vehicle on which the new tires were mounted.

However, it is our understanding that the seller generally does not know, at the time the auto dealer purchases a particular motor vehicle, if the vehicle will be put to use exclusively for demonstration and display as part of the dealer's inventory until it is resold or if it will also be put to taxable use as a demonstrator vehicle. (See Cal. Code Regs., tit. 18, § 1669.5.) Therefore, when a timely, valid resale certificate is taken, the person from whom the auto dealer purchases the vehicle is relieved from liability for collecting and remitting the fee to the Board, and the auto dealer must self-report and pay to the Board the fee on new tires that are mounted on motor vehicles when those vehicles are put to taxable use as demonstrator vehicles.

DISCUSSION

Background

As amended, effective January 1, 1997, the Act mandates that a fee, known as the California Tire Fee, be collected from all persons purchasing a new tire. The fee is collected to create a fund that is used to address, through a program for recycling throughout the State, the environmental and health concerns associated with the eventual disposal of those tires in landfills and stockpiles and through illegal dumping. (PRC, §§ 42861 & 42870 et seq.) In order to carry out the Legislature's intent, the fee must be collected on every new tire when it is sold to the person who uses the tire as it is intended to be used. To that end, the Act provides: "A person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar and seventy-five cents (\$1.75) per tire." (PRC, § 42885, subd. (b)(1) [as amended effective 7/18/06] [emphasis added].) The Act also provides: "The retail seller shall collect the California tire fee from the retail purchaser at the time of sale . . ." (*Id.* at § 42885, subd. (b)(3) [emphasis added].)

However, with respect to demonstrator vehicles and the fee, the 2001 letter states:

[T]he vehicle is first sold at retail as a used car after its demonstrator service. . . . [T]he fee is due on the first retail sale of this vehicle for all new tires. Therefore, assuming no new tires have been placed on the vehicle, four tires are used and not subject to the fee. However, since the spare tire is presumably new, and the fee has not previously been paid on it, the fee is due on the new spare tire. (2001 letter, at p. 1.)

In other words, under the guidance of the 2001 letter, the four tires that are mounted on and sold with the demonstrator vehicle will eventually be discarded without the fee ever being paid on them. As you point out, this result does not seem to be consistent with the Legislature's intent that the fee be collected whenever a new tire is sold.

Analysis

As it is used in the Act, the term "'new tire' means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment." (PRC, § 42885, subd. (g) [emphasis added].) Further, "'new tire' does not include retreaded, reused, or recycled tires." (*Ibid.*)

As stated in this provision, one or more new tires may be sold with both new and used motor vehicles, so when new tires mounted on a new or used motor vehicle are sold

for use as they were intended to be used, such as when an auto dealer purchases new tires with a new or used motor vehicle that the dealer chooses to use as a demonstrator vehicle, the fee is due.

A motor vehicle is "new" until it becomes "used." Under the Vehicle Code, a "used vehicle" is one that, among other things, "has been sold, or has been registered with the [DMV], or has been sold and operated upon the highways." (VC, § 665 [emphasis added].) "Used vehicles" are also vehicles that are "unregistered [and] regularly used or operated as demonstrators in the sales work of a dealer." (*Ibid.* [emphasis added].) In other words, under the Vehicle Code, a vehicle is "used" if it is "sold," or "registered," or "sold and operated upon the highways," or is a "demonstrator." Therefore, once a motor vehicle has been put to use as a demonstrator vehicle, it becomes a "used vehicle," and the new tires that were mounted on the vehicle were sold to the auto dealer with the vehicle and used as they were intended to be used.¹

PRC section 42885, subdivision (b)(3), requires the "retail seller" to collect the "fee from the retail purchaser at the time of sale." However, when an auto dealer purchases a new or used vehicle on which new tires are mounted, the seller may not know if the auto dealer is a "retail purchaser," as defined above (i.e., a person who is purchasing the new tires for use as they are intended to be used). Therefore, if the seller timely accepts in good faith a valid resale certificate stating that the auto dealer is purchasing the vehicle (inclusive of any new tires) for resale, for purposes of the Act, the auto dealer is not a "retail purchaser" and the seller is not a "retail seller" as to that wholesale transaction, and the seller is not required to collect the fee from the purchaser and remit it to the Board. However, in those situations where the auto dealer subsequently puts the tires to their intended use, by putting the vehicle to taxable use as a demonstrator vehicle or otherwise, the auto dealer becomes a "retail purchaser" who purchased the new tires to be used for their intended use and must self-report and pay the fee to the Board.²

In sum, it was the Legislature's intent that the fee must be paid when a person purchases a new tire and uses the tire as it is intended to be used. Accordingly, with respect to demonstrator vehicles, an auto dealer who purchases a new or used motor

¹ In the same way, when a short-term rental car company purchases, and registers with the DMV, new motor vehicles with new tires, the short-term rental car company becomes the consumer and user of the motor vehicles and new tires "at the time of sale." The short-term rental car companies purchase new tires for their intended use when they purchase new motor vehicles. The fact, that, under other laws (see, e.g., Revenue and Taxation Code sections 6006, subdivision (g), 6006.3, and 6007 of the Sales and Use Tax Law), a rental car company's purchase of a new motor vehicle may be considered to be a purchase for resale, is immaterial with respect to the Act. The rental car companies have put the new tires to their intended use. If the short-term rental car company purchases vehicles with new tires pursuant to issuing a resale certificate, the company must self-report and pay the fee to the Board just like auto dealers who must self-report and pay the fee with respect to their demonstrator vehicles.

² This same situation arises where a retail tire dealer purchases new tires for resale but subsequently removes those tires from inventory and puts them to their intended use on motor vehicles or equipment the dealer owns, leases, operates, or otherwise controls. Here, again, the tire dealer becomes a "retail purchaser" who has purchased the tires for their intended use and must report and pay the fee on those tires to the Board.

April 18, 2007

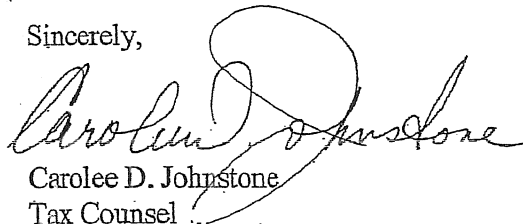
Page 5 of 5

vehicle on which new tires are mounted and who uses the tires as they are intended to be used when the vehicle is placed in demonstrator status, must report and pay the fee on those new tires to the Board, if the fee was not paid previously.

In the near future, the Excise Taxes Division will be sending a new letter to the
revising the guidance previously given in the
2001 letter so that it conforms to the opinion provided herein. Again, thank you for
bringing this important issue to our attention.

If you have any questions regarding the information provided above or would like
further assistance regarding any of these matters, please contact me as provided above.

Sincerely,



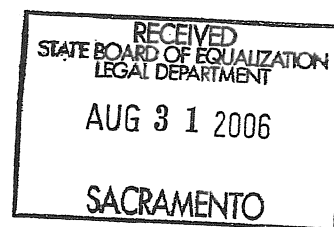
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EXCISE TAXES & FEES
APR 20 2007
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August 24, 2006



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BY U.S. MAIL

Re: Tire Fee Charge, *Public Resource Code* 42885
Demonstrator Vehicle Tire Charges

Dear Ms. Johnstone,

Thank you for speaking with me today, and for your earlier response to my inquiry regarding the Take-Off tire issue.

Another issue has recently arisen regarding the interpretation of the tire fee statutes as applied to demonstration vehicles, and an interpretive letter sent to the dated January 30, 2001. (Attached) In that letter, the State Board of Equalization ("BOE") stated that since several thousand miles are driven on the tires of a demonstrator vehicle prior to the vehicle being sold as a used vehicle, "assuming no new tires have been placed on the vehicle, four tires are used and not subject to the fee." (See pg. 1, 3rd paragraph under "*Response*"). Since the implementation of the provisions for collecting the tire fee on *new* tires, evolving industry and retail practices require that that this provision be revisited and revised to provide clear guidance to motor vehicle dealers in collecting the appropriate tire fee (the "Fee").

California Tire Recycling Act.

The pertinent portions of the *California Tire Recycling Act*, *Public Resources Code* § 42860 et seq. ("The Act") reads:

The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

Section 42885(b)(2). (All "Section" references are to the *Public Resources Code*.)

For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

Section 42885(g).

In a recent memorandum regarding the Fee for a "Take-Off" tire, the BOE stated, "In order to carry out the Legislature's intent, the Fee must be collected on **every tire** when it is first sold at retail in California, including "Take-Off" tires. (See March 30, 2006 letter, pg. 3, 4th full paragraph. Copy attached.) (Emphasis added). It appears the earlier litmus test for charging a tire fee on demonstrator vehicles – the number of miles driven – should now be revised so that the tire fee is not avoided entirely, and so that motor vehicle dealers have clear and workable standards on collecting the fee.

NEW OR USED VEHICLES – IRRELEVANT DISTINCTION.

The Act provides its own definition for "new or used" vehicles, as follows:

"New or used motor vehicle" means any device by which any person or property may be propelled, moved or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

Section 42803.5.

In defining "New or used motor vehicle", for purposes of The Act, the legislature used the term generically and conjunctively as a device propelled on the highway. While the terms "new" and "used" for vehicles are addressed in the *Vehicle Code*¹, the legislature opted to provide its own definition for The Act. New and Used for vehicles may have similar or different meanings according to the *Vehicle Code* for its own purposes, such as for advertising purposes², contracting purposes³, and registration purposes.⁴ However, the *Vehicle Code's* definitions of new or used vehicles are not relevant. The Act's focus is necessarily on the character of the tire and whether it is "new", which expressly excludes "retreaded, reused, or recycled tires." In addressing the character of the tire itself, there is little if any need to address the character of the vehicle, including whether it is a demonstrator vehicle, or whether it is new or used.

NEW TIRES ARE INSTALLED ON NEW VEHICLES.

It goes without saying that a new vehicle received from a manufacture contains original and therefore "new" tires. Without any further variables (such as being placed in demonstrator service, discussed below) a vehicle received from a manufacture and directly sold to the retail purchaser should require the tire Fees for each new tire it contains (including the spare).

¹ See for example *Veh. Code* §§ 430, 665. See also Title 13, CCR 255.02, defining "demonstrator".

² See *Veh. Code* §§ 11713(d), 11713.16(a).

³ See *Veh. Code* § 11713.1(v); *Civil Code* § 2982(q).

⁴ See *Veh. Code* §§ 4000 et seq. For example, see *Veh. Code* §§ 5901, 5904, 5906.

MILEAGE SHOULD NOT BE DETERMINATIVE OF A NEW TIRE

Does the fact that the tires are driven determine whether a tire is "new" for purposes of the tire fee? The BOE's January 30, 2001 letter appears to imply that the miles a tire is actually driven determines whether a tire is new and thereon whether a fee should be charged. This type of litmus test creates uncertainty since there is no fixed number of miles, and it would be difficult to determine the number of miles a tire actually traveled.

1. Test Drive Miles.

On rare occasions, new vehicles may be purchased 'off the rack' from a dealer without being test-driven. Alternatively, the same vehicle may be test driven several hundred or even thousands of miles by various consumers before the new vehicle is sold the first time. Vehicles are routinely test driven by customers before they purchase a vehicle. Naturally, these tires are worn after being driven on any surface, but there is no doubt that the Fee should still be charged. In these test drives, the nubs are worn off, the tread is worn down (however incrementally), and other new tire indicia may be removed.

The number of miles driven on new tires should not be determinative as to whether the tires are "new" for purposes of the tire fee. The definition of "new tire" is still satisfied for which a fee should be charged: A pneumatic or solid tire intended for use on a motor vehicle, or sold with a new or used vehicle, that is not retreaded, reused or recycled. Section 42885(g).

2. Demonstrator Miles Driven.

The dealer may place vehicles in its demonstrator fleet.⁵ While the *Vehicle Code* requires demonstrator vehicles to be represented and sold as a used vehicle, this does not necessarily change the character of the tire as new. (It is not retreaded, reused or recycled.)

Similar to the test driven miles above, the fact that a tire is worn or employed on a vehicle that is driven several miles (commonly referred to as being *used*) should not change the character of "new tire" for purposes of The Act. If so, The Act would then be readily circumvented and the Fee avoided by a dealer placing a vehicle into demonstrator service and having it driven for several miles. This appears to run contrary to The Act's purpose.

DEMONSTRATOR VEHICLES DO NOT QUALIFY AS A RETAIL SALE.

The Act requires the Fee be collected by the retail seller from the retail purchaser at the time of sale. Section 42885(b)(2). A vehicle put in demonstration service is not a "retail sale" that requires the collection of the tire fee.

The Act does not provide a definition of "retail sale". *California Commercial Code* section 2106 defines "sale" as: "A 'sale' consists in the passing of title from the seller to the buyer for a price." The *Vehicle Code* § 520 defines "retail sale" as: "A 'retail sale' is a sale of goods to a

⁵ 13 CCR 255.02 defines demonstrator as: "A 'demonstrator' is a vehicle specifically assigned by a dealer, to be regularly used for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type. A vehicle in a dealer's inventory which is only occasionally demonstrated to a prospective purchaser whose interest has focused on that particular vehicle is not a 'demonstrator'."

person for the purpose of consumption and use, and not for resale to others, including, but not limited to, an arrangement where a motor vehicle is consigned to a dealer for sale."

Putting a vehicle in demonstration service does not qualify as a retail sale under either of these statutory definitions. Under the *Commercial Code*, a vehicle put in demonstrator service does not pass title, and there is no price paid. A vehicle put in demonstrator service is not a sale of goods as defined by the *Vehicle Code*. Additionally, *Vehicle Code* § 5906 contemplates demonstrator service without a transfer of title, as follows:

When the transferee of a vehicle is a dealer who holds the same for resale and operates or moves the same upon the highways under special plates, the dealer is not required to make application for transfer, but upon transferring his title or interest to another person he shall comply with this division."

While the *Vehicle Code* requires dealers to represent and sell a demonstrator vehicle as a "used vehicle", The Act is applied across the board to both new and used vehicles on which new tires are installed. The Act's focus is only upon the nature of the tire. The Act is not concerned with whether the vehicle is new or used or whether it has been a demonstrator before being sold to an ultimate retail purchaser. If the tires were New, i.e., not a retread, not reused, and not recycled, then the Fee should be charged to the retail buyer, even if the tires are worn by the miles the vehicle traveled during its demonstrator service.

RETAIL BUYER IS APPROPRIATE PARTY TO PAY FEE.

While it was suggested that the dealer should pay the Fee when it places a vehicle into demonstrator service, this appears to run contrary to The Act, which shifts the Fee to the *retail buyer*. The trigger that imposes the fee is the sale of the vehicle from a retail seller to a retail purchaser. The Fee is not triggered by the dealer's transfer of status of a vehicle that remains within a dealer's inventory.

WHY IS THIS IMPORTANT NOW?

Vehicle dealers take their jobs seriously and want to do the right thing, but are continually faced with difficult rules, interpretations and exposure. In the instant case, dealers are facing difficult to understand rules that expose them to either regulatory infractions for failing to collect the Fee from its customers, or liability from consumer class-actions for collecting the fees, allegedly improperly. It is imperative that the BOE provide guidance that is workable and easily implemented and does not require unnecessary complexities. We are still human, and subject to error. Accordingly, a single, simple rule consistent with The Act should be applied to collect the Fee from the first retail buyer for all new tires that are installed on all vehicles, whether installed by the manufacturer or by the dealer, and irrespective of the mileage or demonstrator service.

Very truly yours,

State of California

Board of Equalization
Legal Department-MIC: 82**M e m o r a n d u m**

To: Susan Sinetos, BTCS II
Excise Taxes and Fees Division

Date: March 30, 2006

From: Carolee D. Johnstone
Tax Counsel

Telephone: (916) 323-7713
CalNet: 8- 473-7713

Subject: **CALIFORNIA TIRE FEE: FEE PAYER INQUIRIES REGARDING
APPLICATION OF THE FEE TO "TAKE-OFF" TIRES**

This memorandum is in response to your request of January 18, 2006, regarding inquiries from two fee payers about application of the California Tire Fee (Fee) to what are known in the tire industry as "Take-Off" tires. The two fee payers are (Fee Payer One) and (Fee Payer Two) (together, Fee Payers).

Fee Payer One requests an opinion on the propriety of collecting tire fees on tires that it received from its wholesale tire supplier, which it describes as "Take-Off" tires. Fee Payer One understands that "Take-Off" tires are tires that were previously installed on a vehicle and were subsequently removed and sold to Fee Payer One at wholesale. Fee Payer One states that the Fee imposed pursuant to Public Resources Code section 42885, operative January 1, 2005, to December 31, 2014 (Section 42885), had not been paid when it received the "Take-Off" tires from the wholesaler. Fee Payer One installed the "Take-Off" tires on a vehicle and collected the Fee from the retail customer.

Fee Payer One poses the following questions:

1. Should Fee Payer One collect the Fee for tires when it believes the Fee has not been paid by the first retail buyer?
2. Does the fact that the tires were installed, driven on, and transferred from one vehicle to another affect the requirement that the Fee must be collected from the first retail buyer?
3. Is a "Take-Off" tire a "new tire" or a "reused" tire pursuant to Section 42885, subdivision (g)?

Fee Payer Two asks whether "Take-Off" tires should be considered to be "new" or "used" and offers the opinion that these tires should be considered to be "used."

As discussed in detail below, it is our opinion, assuming our understanding of the facts and circumstances is correct, that "Take-Off" tires are "new" tires and that the Fee should be collected from the first retail customer to purchase them.

Susan Sinetos, BTCS II

March 30, 2006

Page 2 of 4

First, please note that, under Revenue and Taxation Code section 55045, identified taxpayers, such as Fee Payer One and Fee Payer Two, are granted relief from the fees, interest, and penalties imposed pursuant to the Fee Collection Procedures Law if they fail to make a timely return or payment due to reasonable reliance on written advice from the Board, but only if the Board finds that all of the conditions under section 55045 are satisfied. Pursuant to paragraph (b)(1) of section 55045, it is important that all of the facts and circumstances regarding the activity in question, i.e., here, sale of "Take-Off" tires, have been provided to us. Please note that, if there are additional facts or circumstances regarding "Take-Off" tires or if the facts or circumstances differ from the facts and circumstances as we understand them, reliance on this advice may be determined to not be "reasonable." Please be certain that our response to the Fee Payers includes this information, and please include a copy of section 55045 with your responses to them. In addition, please remind the Fee Payers to retain copies of their letters and your letter in their records, should any question arise at a later date.

DISCUSSION

As noted above, the central question with regard to "Take-Off" tires is whether they should be regarded as "new" tires or "used," "reused," or otherwise "not new" tires for purposes of the California tire fee.

Section 42885 states that, beginning January 1, 2005, "every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of [\$1.75] per tire."¹ (Section 42885, subd. (b)(1)(B).) "New tire" is defined as "a pneumatic or solid tire intended for use with on-road or off-road motor vehicles . . . or a new tire sold with a new or used motor vehicle, . . . including the spare tire . . ." (Section 42885, subd. (g).)

A review of relevant Vehicle Code provisions and related regulations and the federal regulations to which they refer, reveals that the requirements for "used" tires referred to in the Public Resources Code² are merely technical requirements that used tires must meet to still be considered "suitable" for continued use. No useful definition that might differentiate a "used" tire from a "new" tire is provided.

The dictionary provides a couple of relevant definitions of "new," such as: "having existed or having been made but a short time"; and "having recently come into existence or use." (Merriam-Webster's Collegiate Dictionary (10th ed. 1993) p. 782.) "Used" is defined, as is relevant here, as "that has endured use; specifically: second-hand." (*Id.* at p. 1301.) It should be noted that "new"

¹ As of January 1, 2007, the fee is reduced to \$1.50 per tire. (Section 42885, subd. (b)(1)(C).)

² A "used tire" is: (A) tire that meets all of the following requirements:

(a) The tire is no longer mounted on a vehicle but is still suitable for use as a vehicle tire.

(b) The tire meets the applicable requirements of the Vehicle Code and Title 13 of the California Code of Regulations.

(c)(1) The used tire is ready for resale, is stored by size in a rack or a stack not more than two rows wide, but not in a pile, and is stored in accordance with local fire and vector control requirements and with state minimum standards.

(2) A used tire stored pursuant to this section shall be stored in a manner to allow the inspection of each individual tire. (Pub. Resources Code, § 42806.5.)

Susan Sinetos, BTCS II

March 30, 2006

Page 3 of 4

may apply to what is freshly made and unused" (*id.* at p. 782), but not necessarily; "new" may also apply to something that has only been used for a short time.

Approaching this question from a practical perspective, whether a "Take-Off" tire will be regarded as "new" or "used" should depend on how the particular tire has been used. It is our understanding that "Take-Off" tires are the tires that automobile manufacturers install on newly-manufactured motor vehicles when the motor vehicles are shipped from the factory to wholesale distributors and eventually to the retail motor vehicle dealers, i.e., the "original" tires. We further understand that these "original" tires become "Take-Off" tires because the "original" tires are removed at the time the new motor vehicle is purchased or leased long term by a retail customer and replaced, as part of the purchase agreement, with tires the customer prefers. In other words, the retail customer did not purchase the "original" tires; the retail customer purchased only the replacement tires.

Generally, the new motor vehicle,³ with its "original" tires, will have been driven several miles, such as for delivery to the dealership, when traded to another dealership, and for test drives by potential buyers. Despite having been driven several miles, sometimes for 100 miles or more, the motor vehicle, and its "original" tires, is sold to the retail customer as "new" — i.e., it has existed only a short time. It follows, then, that if the "original" tires were removed when the new motor vehicle was purchased by a retail customer, they were still "new" tires. In addition, because the retail customer did not purchase the "original" tires, the dealer did not collect the Fee for them. Instead, the retail customer presumably paid the Fee on the replacement tires.

On the other hand, it is reasonable to assume, with regard to tires that are removed from a motor vehicle at any time other than prior to or at the time a new motor vehicle is sold to a retail customer, i.e., after the tires have been sold with the new motor vehicle, that, first, the Fee would have been paid on them, and, second, they would not be considered to be "Take-Off" tires but, instead, they would be second-hand, or "used" tires.

It was the Legislature's intent, in enacting the California Tire Recycling Act, to collect a fee from all persons purchasing a new tire, in order to create a fund that could be used to address, through a program of recycling throughout the State, the environmental and health concerns associated with the eventual disposal of those tires, in landfills, stockpiles, and illegal dumping. (Pub. Resources Code, §§ 42861, 42870.) In order to carry out the Legislature's intent, the Fee must be collected on every tire when it is first sold at retail in California, including "Take-Off" tires.

With respect to the specific questions posed by Fee Payer One, based on the facts and circumstances, as we understand them, regarding "Take-Off" tires:

³ The Vehicle Code defines a "used vehicle" as "a vehicle that has been sold, or has been registered with [DMV], or has been sold and operated upon the highways, or has been registered with the appropriate agency of authority, of any other state . . ." (Veh. Code, § 665 [emphasis added].) It is not clear what constitutes a "new" vehicle, in terms of, e.g., the number of miles it has been driven, but a reasonable inference would be that, if the vehicle has not been sold and operated on the highways or registered with DMV, it is "new."

Susan Sinetos, BTCS II

March 30, 2006

Page 4 of 4

1. Yes, both Fee Payers should collect the Fee when they sell "Take-Off" tires to a retail customer, because, most likely, the reason the Fee was not paid previously was because the tires were never previously sold to a retail buyer.
2. No, the fact that the tires were installed on a new vehicle, driven on, and removed prior to being sold at retail does not affect the fact that the "Take-Off" tires are "new" tires on which the Fee must be collected when they are sold to a retail customer for the first time.
3. For the reasons discussed above, the "Take-Off" tires should be considered to "new" tires for purposes of Section 42885, subdivision (g) and the Fee.

Please let me know if you or the Fee Payers have any questions regarding the information provided here or if there are other facts and circumstances pertaining to "Take-Off" tires that should be considered and addressed in determining whether or not the Fee should apply to them.

cc: Lynn Bartolo MIC:57
Sharon Jarvis MIC:82
Monica Brisbane MIC:82

December 22, 2005

Gordon Louton
State Board of Equalization,
Excise Tax Division, MIC 56
Post Office Box 942879
Sacramento, CA 94279-0056

BY FAX TO:
(916-445-3265)
AND U.S. MAIL

EXCISE TAXES
MAY 24 2006
GORDON LOWTON

Re: Tire Fee Charge, *Public Resource Code* 42885

Dear Mr. Louton:

Thank you for speaking with me the other day. In attempting to collect and comply with California tire fee provisions found in *Public Resource Code* § 42885 ("Section 42885"), we have come upon an interesting scenario. I write to request an opinion on the propriety of collecting tire fees under the following circumstance.

On one occasion, our wholesale tire supplier provided us with what were described as "T/O" tires, which I understand means "Take-Off" tires. I understand that these "Take-Off" tires were installed on a previous vehicle, removed and sold to us wholesale. The California Tire fee under Section 42885 was not collected for these "Take-Off" tires by the wholesaler or any other party. We received and installed these tires on a vehicle, and charged the customer the California tire fee under Section 42885.

Based on the foregoing facts, I ask for an opinion on the following:

- 1) Should we collect the California tire fee for tires under circumstances that we believe the fee has not been previously paid by the first retail buyer?
- 2) Does the fact that tires are installed, driven on, and transferred from one vehicle to another impact the requirement to collect the fee from the first retail buyer?
- 3) Does a Take-Off tire satisfy the requirements of a "new tire", or should it be considered "reused" as set forth in Section 42885(g).

This appears to be a unique circumstance that rarely happens in our business, but may occur in the vehicle retail sale industry. We want to fully comply with all regulatory requirements, but we also do not want customer complaints or to unnecessarily expose ourselves to consumer liability for charging fees improperly. I appreciate your attention to this inquiry, and look forward to your opinion. If there are other facts I can provide, please call.

Very truly yours



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

Excise Taxes Division MIC: 56
450 N Street, Sacramento, California
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JOHAN KLEHS
First District, Hayward

DEAN ANDAL
Second District, Stockton

CLAUDE PARRISH
Third District, Torrance

JOHN CHIANG
Fourth District, Los Angeles

KATHLEEN CONNELL
State Controller, Sacramento

JAMES E. SPEED
Executive Director

January 30, 2001

Sacramento, CA

Re: Follow-up Letters - California Tire Recycling Fee

Dear _____:

I am in receipt of your additional letters of January 4, 10 and 15, 2001 requesting written clarification and enforcement opinions concerning whether franchised new motor vehicle dealer members will be required to collect and remit the California Tire Recycling Fee (fee) relative to various types of transactions. The following are our responses to the various transactions you set forth in your letters:

1. **The sale of demonstrator vehicles** As described in your January 4th letter, motor vehicle manufacturers, distributors, and franchised new motor vehicle dealers often place new and previously unregistered vehicles in demonstrator service and the vehicles are then driven for several thousand miles prior to being sold as used vehicles. You assume that the fee is due on the first retail sale of the vehicle for all new tires.

Response: Section 42885(b)(1)(A) of the Public Resources Code states that "[o]n or before December 31, 2006, every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar (\$1.00) per tire." Further, Section 42885 (b)(3) states that "[t]he retail seller shall collect the California tire fee from the retail purchaser." In the fact pattern you set forth involving demonstrator vehicles, the vehicle is first sold at retail as a used car after its demonstrator service. Your letter is correct in that the fee is due on the first retail sale of this vehicle for all new tires. Therefore, assuming no new tires have been placed on the vehicle, four tires are used and not subject to the fee. However, since the spare tire is presumably new, and the fee has not previously been paid on it, the fee is due on the new spare tire.

2. **The sale of new motor vehicles to rental car companies** Your January 4th letter states,

"Rental car companies (such as _____, etc.) annually purchase thousands of new motor vehicles from our dealer members as wholesale fleet sales and the rental car companies (most of which are licensed by DMV as motor vehicle dealers) typically present resale certificates to our dealer members as part of the transaction. If the BOE

does not require collection of the tire fee in such a wholesale transactions, will it require rental car companies to collect the tire fee from daily rental car customers (some of our dealer members operate small rental car companies for the purpose of providing their service customers with transportation)?"

Response: The Public Resources Code states in section 42885(b)(3) "The retail seller shall collect the California tire fee from the retail purchaser at the time of sale...." If rental car companies (such as etc.) purchase motor vehicles from vehicle dealers as wholesale fleet transactions, the fee is not due from the vehicle dealer. The fee is due from the rental car company on the first retail sale of the new vehicle. In this case, it would be the first lease/rental of the new vehicle.

3. **The sale of new motor vehicles at wholesale** Your January 4th letter sets forth the following fact pattern:

"In addition to rental car company transactions, there are numerous other types of transactions in which our franchised new motor vehicle dealers sell new motor vehicles at wholesale. Such transactions include "dealer trades" (a franchised a dealer wholesales a new to another franchised dealer) and the sale of new motor vehicles to a leasing company or a converter".

Response: Section 42885(b)(3) of the Public Resources Code states that the *retail* seller shall collect the fee from the *retail* purchaser at the time of the sale. There is no requirement for the collection of the fee at the time of a wholesale transaction.

4. **The sale of a new motor vehicles to government entities** Your January 4th letter further states that your franchised new motor vehicle members annually sell thousands of new motor vehicles to police departments and other municipal, county, and state government entities. Your ask whether the fee applies to such sales.

Response: There is no provision for exemption of the fee on tires sold to government entities. The fee is due on all new tires sold to such entities.

5. **Courtesy deliveries for out-of-state dealers** Your January 10th letter sets forth the following fact pattern:

"An out-of-state dealer may contract to sell new vehicles to a customer in California (often a corporate account) and will direct the vehicle manufacturer to "drop ship" the vehicles to a California dealer, who then makes a "courtesy delivery" to the customer. In such a transaction, the California dealer usually charges the manufacturer for new car preparation, but the California dealer does not enter the vehicle into its inventory, it never takes an ownership interest in the vehicle, and it does not have a contractual relationship with the customer (it is not the retail seller of the vehicle). If the BOE takes the position

January 30, 2001

Page 3

that the California dealer is considered to have made the retail sale in such a transaction and requires the California dealer to collect the fee from the consumer, on what document is the California dealer supposed to disclose the tire fee (because the California dealer is not the actual seller of the vehicle - it does not issue the customer an "invoice" or other contract documents)?"

Response: The Board recognizes a courtesy delivery as an out-of-state dealer who contracts to sell a vehicle to a customer in California and will direct the manufacturer to make delivery to the customer at a specified location in California. The manufacturer may then deliver the vehicle to a dealer in California, who will deliver it to the customer in California. If the out-of-state dealer is not engaged in business in California, or does not have a California seller's permit and a dealer's license from the California Department of Motor Vehicles, the fee and the applicable sales tax must be reported by the California dealer. In this instance, the California dealer is considered to have made the retail sale of the tires. Therefore, the tire fee is due from the California dealer.

6. **Delivery of vehicles sold in 2000, but delivered in 2001** Your January 10th letter further states that a number of your dealer members entered into binding contracts to sell new vehicles prior to January 1, 2001, but did not physically deliver the vehicles to the purchasers until after January 1, 2001. You ask whether the fee applies to those vehicles with new tires.

Response: In order to determine the tax application of this transaction the definition of a "sale" must be considered. The Public Resources Code does not define a sale for purposes of the California Tire Recycling Fee. However, the Sales and Use Tax Law, Revenue and Taxation Code Section 6006 defines a sale as "[a] transfer for a consideration of the title or possession of tangible personal property" Given this definition, and given the brief facts set forth in your question, the fee would be due on the date of delivery assuming both consideration and title or possession of the vehicle was not made prior to January 1, 2001.

7. **Factual Situation** Your letter dated January 15th sets forth the following factual situation:

"A licensed new motor vehicle dealer takes a used vehicle in trade in conjunction with the sale of a new motor vehicle. The dealer is desirous of retailing the trade-in vehicle on its used car lot but the vehicle has two tires that fail to meet the tire tread requirements of Division 12 of the Vehicle Code. As part of reconditioning the vehicle for resale by this dealer, the dealer sublets the replacement of two worn-out tires with a local tire dealer who charges the dealer \$1 per new tire for the California tire fee."

"We are advised that most tire dealers do not differentiate between retail and wholesale transactions for purposes of charging the California tire fee. We assume that the tire fee should only be collected and remitted one time for each new tire sold and that the new motor vehicle dealer in the above factual situation would not be required to charge the purchaser of the used vehicle an additional \$1 per new tire for the California tire fee. If

January 30, 2001

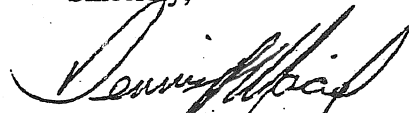
Page 4

you agree with our assumption, what type of documentation, if any, will your auditors require our dealer members to maintain in order to demonstrate that the fee was collected by the tire dealer?"

Response: If the local tire dealer sold the two new tires to the automobile dealer in a retail transaction, the tire dealer is responsible for collecting the fee from the automobile dealer. The automobile dealer is not subsequently required to collect the fee upon the sale of the used vehicle. However, if the local tire dealer sold the tires to the automobile dealer in a wholesale transaction (i.e., accompanied by a resale certificate) then the automobile dealer is responsible for the collection of the fee when the vehicle with new tires is subsequently sold at retail. If the local tire dealer collects the \$1 per tire from the automobile dealer in a wholesale transaction (i.e., accompanied by a resale certificate), it would be considered excess fee reimbursement and the local tire dealer would be required to either refund the \$1 per tire directly to the person who purchased the tire or remit it to the Board of Equalization. The automobile dealer is required to collect and remit the fee on the retail sale of the new tires on a new or used car.

Please let me know if you have any further questions.

Sincerely,



Dennis P. Maciel, Chief
Excise Taxes Division
Special Taxes Department

cc: Honorable Claude Parrish
Honorable John Chiang
Honorable Johan Klehs
Honorable Dean Andal
Honorable Kathleen Connell
Ms. Marcy Jo Mandel
Mr. Marcus Frishman
Mr. Paul Steinberg
Ms. Ardith Flyr
Mr. James E. Speed
Mr. Timothy Boyer
Ms. Janice Thurston
Mr. Allan K. Stuckey
Ms. Terry L. Jordan - Integrated Waste Management Board

January 30, 2001

Page 5

bcc: Ms. Janet Vining
Ms. Monica Brisbane
Mr. Vic Day
Mr. Bill Kimsey
Mr. James Van Gundy
Mr. Brian Ishimaru
Mr. Jay Bagley
Ms. Eva Delgado